

## **complaint**

Mr P complains that he wasn't provided with satisfactory information about his debt management plan ("DMP"), which was sold to him by a third party ("T"). The DMP was then passed to Harrington Brooks (Accountants) Limited, trading as Harrington Brooks Debt Management, ("HBDM"), to be administered. Mr P also says that his DMP wasn't managed correctly. The complaint is brought to this service on Mr P's behalf by a claims management company ("CMC"). But for ease, I shall refer below to all actions being taken by Mr P unless stated otherwise.

## **background**

Mr P entered into a DMP in June 2013 with T. The DMP was then transferred to HBDM in July 2013 to be administered. Mr P complains that he wasn't told that the same or a similar service could have been provided free of charge or about the availability of free and impartial advice. He also said that he wasn't informed of the potential impact of the DMP on his credit file. Nor was he told that interest and charges could continue to accrue. He also said that his DMP wasn't reviewed.

The adjudicator didn't recommend that the complaint should be upheld. He said that he only would have expected a business at that time to refer a customer to free services if the customer couldn't afford the fee it charged or had priority debts. But this didn't apply to Mr P as he had a monthly disposable income of £245, and he'd agreed to pay his creditors £80 per month. He also had no priority debts. The adjudicator had also seen the terms and conditions for the DMP. These explained that Mr P's creditors could still apply interest and charges to his debts and that his credit file would be affected. The adjudicator was also satisfied that HBDM had tried to conduct a review of the DMP in 2014 without success.

The adjudicator also referred to the 2015 review when HBDM became aware that Mr P had no disposable income. During this call Mr P was told about the free services available to him. But, Mr P was happy to stay with HBDM. Mr P told HBDM he'd been speaking to a free independent adviser, ("FIA"), and that he'd been advised by them that he'd be eligible for an IVA. HBDM explained they could offer this service to Mr P and wouldn't charge a fee, as he'd already paid a fee to have a DMP. Bankruptcy was also mentioned to Mr P during the review but HBDM didn't think it would be suitable for Mr P, as his total debt wasn't high enough. The adjudicator thought that HBDM had acted correctly in telling Mr P about the free services available to him. He also noted that during the call, HBDM went through Mr P's income and expenditure with him again. It was agreed Mr P would make cuts to his spending, so that he could afford the £87.50 monthly payment he had been making to the DMP.

The CMC disagreed and responded by referring to the 2015 review in which Mr P was shown to have a negative disposable income. It said that HBDM had materially omitted the option for Mr P to enter into a DRO. It said that Mr P wasn't offered the opportunity to make an informed decision. The only choices offered to him were that he could cut back on his expenditure and look at a DMP or an Individual Voluntary Arrangement ("IVA"). But the CMC said that both products would have had a commercial value to HBDM, but the DRO wouldn't have had.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As the only matter raised in response to the adjudicator's view is the omission to advise Mr P about a DRO during the 2015 call, I only propose to deal with this aspect of Mr P's complaint in this decision.

I have listened to the call recording for the 2015 Review. I note that HBDM's agent said that she would try and give suitable advice to Mr P after she had been through Mr P's income and expenditure details with him. Mr P also said that he'd received advice from a FIA about an IVA but he said that he didn't know if going into an IVA was advisable for him at the moment. I note that HBDM's agent then went through Mr P's income and expenditure. I can see that some of the items of expenditure were clearly estimates. This could be the reason why at the end of the agent's initial calculations, Mr P's income was somewhat lower than his expenditure. The agent then went through the items of expenditure again with Mr P, and his disposable income amounted to a monthly amount of £87.95. Mr P confirmed that this was a manageable amount. As Mr P's reviewed disposable income of £87.95 appeared to be more realistic, this meant that a debt relief order wouldn't have been suitable for Mr P as the maximum surplus monthly income to be eligible for a DRO is £50. I also note that Mr P had a hire purchase agreement for a car. If he'd entered into a DRO, he might have had to hand the car back which might not have been appropriate for his circumstances. So, overall, I don't agree with the CMC that a DRO should have been raised with Mr P

I can also see that HBDM's agent referred to two different suppliers of independent free advice on a couple of occasions during the call. She said that they didn't charge a fee so suggested that he go to either of them. She reiterated that HBDM charged a fee. Despite this, Mr P said that he wanted to stay with HBDM.

I also note that HBDM's agent raised other debt solutions with Mr P. She discussed an IVA with him but wasn't sure that he was eligible for an IVA and suggested he speak to HBDM's IVA advisers after her call. I also note that the agent told Mr P that he wouldn't have to pay HBDM an initial fee for the IVA as he had already paid an initial fee for the DMP. I can also see that the agent raised bankruptcy but thought that his debt was too low for this.

After carefully considering the circumstances of this complaint, overall, I don't think that HBDM has done anything wrong in rejecting Mr P's complaint.

## **my final decision**

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 January 2017.

Roslyn Rawson  
**ombudsman**